

21 C.J.S. Courts § 338

Corpus Juris Secundum | May 2023 Update

Courts

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X. Clerks of Courts

C. Powers and Duties

§ 338. Keeping records; searching and certifying records

[Topic Summary](#) | [References](#) | [Correlation Table](#)

West's Key Number Digest

West's Key Number Digest, [Clerks of Courts](#)  69

It is the duty of the clerk to make and keep a record of the proceedings in court and of the documents submitted to the clerk.

The court clerk is the custodian of court records,¹ and it is the duty of the clerk to make and keep a record of the proceedings in court,² and of all documents submitted to the clerk, whether or not they are actually filed.³ As a general rule, the clerk of court has a mandatory, nondiscretionary duty to record in the appropriate civil order book a final judgment order entered in a civil action and endorsed for entry.⁴ The clerk of an appellate court is statutorily required to file and preserve the certified records in an appeal.⁵

Although the court clerk takes care of the records for the court, nothing in the clerk's custodial function gives the court clerk independent ownership authority over court records.⁶ It follows that the clerk must make court records available to the court and is also obligated to make the records available to members of the public when appropriate.⁷

Searching and certifying records.

It is the duty of a clerk of a court to attest and certify the records of his or her court.⁸ As an official having custody of public records, the court clerk makes searches and issue certifications and exemplifications of documents and records in his or her office without regard to the purpose for which such certification is obtained.⁹

CUMULATIVE SUPPLEMENT

Cases:

Clerk of town court failed in her duty to conduct a diligent search of records upon county public defender's request under Judiciary Law provision directing the clerk of a court to, upon request, diligently search the files, papers, records, and dockets in his or her office, where clerk had refused to entertain several improper requests for transcripts from public defender's office because they did not include docket numbers assigned by her office, even though she had already located those docket numbers and had given them to public defender office's staff, and record revealed multiple instances in which town court staff located a criminal case's docket number in court's case management system after providing details such as a defendant's name, date of birth and file date. *N.Y. Judiciary Law § 255. Herrick v. Town of Colonie*, 211 A.D.3d 1146, 179 N.Y.S.3d 443 (3d Dep't 2022).

[END OF SUPPLEMENT]

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Footnotes

- 1 Fla.—*Hogan v. State*, 983 So. 2d 656 (Fla. 2d DCA 2008).

Ind.—*Scott v. State*, 883 N.E.2d 147 (Ind. Ct. App. 2008).

Mich.—*Lapeer County Clerk v. Lapeer Circuit Court*, 469 Mich. 146, 665 N.W.2d 452 (2003).
- 2 Ark.—*Stanton v. Arkansas Democrat Co.*, 194 Ark. 135, 106 S.W.2d 584 (1937).

Okla.—*Little v. Employer's Cas. Co.*, 1937 OK 437, 180 Okla. 628, 71 P.2d 687 (1937).

Electronic docket sheet
The clerk of court's electronic computerized "case history" or docket sheet satisfies the rule requiring the clerk to maintain a docket.

Ky.—*Stewart v. Kentucky Lottery Corp.*, 986 S.W.2d 918 (Ky. Ct. App. 1998).
- 3 Fla.—*Blackshear v. State*, 115 So. 3d 1093 (Fla. 1st DCA 2013).

Neb.—*State v. Muse*, 15 Neb. App. 13, 721 N.W.2d 661 (2006), decision *aff'd*, 273 Neb. 99, 727 N.W.2d 689 (2007).

Nev.—*Sullivan v. Eighth Judicial Dist. Court In and For County of Clark*, 111 Nev. 1367, 904 P.2d 1039 (1995).
- 4 W. Va.—*State ex rel. Core v. Merrifield*, 202 W. Va. 100, 502 S.E.2d 197 (1998).
- 5 Cal.—*People v. Gibson*, 239 Cal. App. 4th 1151, 192 Cal. Rptr. 3d 45 (2d Dist. 2015).

Tex.—*In re Strickhausen*, 994 S.W.2d 936 (Tex. App. Houston 1st Dist. 1999).
- 6 Mich.—*Lapeer County Clerk v. Lapeer Circuit Court*, 469 Mich. 146, 665 N.W.2d 452 (2003).
- 7 Mich.—*Lapeer County Clerk v. Lapeer Circuit Court*, 469 Mich. 146, 665 N.W.2d 452 (2003).
- 8 N.Y.—*Lewandowski v. Office of Court Admin.*, 173 Misc. 2d 335, 660 N.Y.S.2d 959 (Sup 1997).

Wyo.—[Farmers State Bank of Riverton v. Investors Guaranty Corp.](#), 48 Wyo. 319, 45 P.2d 1057 (1935).

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Pa.—[Petticord v. Joyce](#), 516 Pa. 35, 531 A.2d 1383 (1987).

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